

2SHB 1280 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 13.40.510 and 2010 1st sp.s. c 7 s 62 are each
4 amended to read as follows:

5 (1) In order to receive funds under RCW 13.40.500 through
6 13.40.540, local governments may, through their respective agencies
7 that administer funding for consolidated juvenile services, submit
8 proposals that establish community juvenile accountability programs
9 within their communities. These proposals must be submitted to the
10 juvenile rehabilitation administration of the department of social
11 and health services for certification.

12 (2) The proposals must:

13 (a) Demonstrate that the proposals were developed with the input
14 of the local law and justice councils established under RCW
15 72.09.300;

16 (b) Describe how local community groups or members are involved
17 in the implementation of the programs funded under RCW 13.40.500
18 through 13.40.540;

19 (c) Include a description of how the grant funds will contribute
20 to the expected outcomes of the program and the reduction of youth
21 violence and juvenile crime in their community. Data approaches are
22 not required to be replicated if the networks have information that
23 addresses risks in the community for juvenile offenders.

24 (3) A local government receiving a grant under this section shall
25 agree that any funds received must be used efficiently to encourage
26 the use of community-based programs that reduce the reliance on
27 secure confinement as the sole means of holding juvenile offenders
28 accountable for their crimes. The local government shall also agree
29 to account for the expenditure of all funds received under the grant
30 and to submit to audits for compliance with the grant criteria
31 developed under RCW 13.40.520.

1 (4) The juvenile rehabilitation administration, in consultation
2 with the Washington association of juvenile court administrators and
3 the state law and justice advisory council, shall establish
4 guidelines for programs that may be funded under RCW 13.40.500
5 through 13.40.540. The guidelines must:

6 (a) Target referred and diverted ~~((and))~~ youth, as well as
7 adjudicated juvenile offenders;

8 (b) Include assessment methods to determine services, programs,
9 and intervention strategies most likely to change behaviors and norms
10 of juvenile offenders;

11 (c) Provide maximum structured supervision in the community.
12 Programs should use natural surveillance and community guardians such
13 as employers, relatives, teachers, clergy, and community mentors to
14 the greatest extent possible;

15 (d) Promote good work ethic values and educational skills and
16 competencies necessary for the juvenile offender to function
17 effectively and positively in the community;

18 (e) Maximize the efficient delivery of treatment services aimed
19 at reducing risk factors associated with the commission of juvenile
20 offenses;

21 (f) Maximize the reintegration of the juvenile offender into the
22 community upon release from confinement;

23 (g) Maximize the juvenile offender's opportunities to make full
24 restitution to the victims and amends to the community;

25 (h) Support and encourage increased court discretion in imposing
26 community-based intervention strategies;

27 (i) Be compatible with research that shows which prevention and
28 early intervention strategies work with juvenile offenders;

29 (j) Be outcome-based in that it describes what outcomes will be
30 achieved or what outcomes have already been achieved;

31 (k) Include an evaluation component; and

32 (l) Recognize the diversity of local needs.

33 (5) The state law and justice advisory council may provide
34 support and technical assistance to local governments for training
35 and education regarding community-based prevention and intervention
36 strategies.

37 (6) For purposes of this section and sections 2 and 3 of this act
38 "referred youth" means a youth who:

1 (a) Was contacted by a law enforcement officer and the law
2 enforcement officer has probable cause to believe that he or she has
3 committed a crime;

4 (b) Was referred to a program that allows youth to enter before
5 being diverted or charged with a juvenile offense; and

6 (c) If not for the program that he or she was referred to, would
7 have been diverted or charged with a juvenile offense.

8 NEW SECTION. Sec. 2. A new section is added to chapter 13.40
9 RCW to read as follows:

10 (1) The department shall provide an annual report on December 1st
11 to the appropriate committees of the legislature that includes a
12 county by county description of the youth served by the programs
13 funded under RCW 13.40.500 through 13.40.540 including the number of
14 youth in each of those counties who were eligible for programs based
15 on being a referred youth as defined by RCW 13.40.510.

16 (2) This section expires July 1, 2020.

17 NEW SECTION. Sec. 3. As of the effective date of this section,
18 the juvenile rehabilitation administration of the department of
19 social and health services must implement a stop loss policy when
20 allocating funding under RCW 13.40.510. Under the stop loss policy,
21 funding formula changes may not result in a funding loss for any
22 juvenile court of more than two percent from one year to the next.
23 The block grant oversight committee must establish a minimum base
24 level of funding for juvenile courts with lower numbers of at-risk
25 youth ten years of age and over but under eighteen years of age. The
26 administration must report to the legislature by December 1, 2018,
27 about how funding is used for referred youth and the impact of that
28 use on overall use of funding.

29 **Sec. 4.** RCW 13.40.070 and 2013 c 179 s 3 are each amended to
30 read as follows:

31 (1) Complaints referred to the juvenile court alleging the
32 commission of an offense shall be referred directly to the
33 prosecutor. The prosecutor, upon receipt of a complaint, shall screen
34 the complaint to determine whether:

35 (a) The alleged facts bring the case within the jurisdiction of
36 the court; and

1 (b) On a basis of available evidence there is probable cause to
2 believe that the juvenile did commit the offense.

3 (2) If the identical alleged acts constitute an offense under
4 both the law of this state and an ordinance of any city or county of
5 this state, state law shall govern the prosecutor's screening and
6 charging decision for both filed and diverted cases.

7 (3) If the requirements of subsections (1)(a) and (b) of this
8 section are met, the prosecutor shall either file an information in
9 juvenile court or divert the case, as set forth in subsections (5),
10 (6), and (8) of this section. If the prosecutor finds that the
11 requirements of subsection (1)(a) and (b) of this section are not
12 met, the prosecutor shall maintain a record, for one year, of such
13 decision and the reasons therefor. In lieu of filing an information
14 or diverting an offense a prosecutor may file a motion to modify
15 community supervision where such offense constitutes a violation of
16 community supervision.

17 (4) An information shall be a plain, concise, and definite
18 written statement of the essential facts constituting the offense
19 charged. It shall be signed by the prosecuting attorney and conform
20 to chapter 10.37 RCW.

21 (5) Except as provided in RCW 13.40.213 and subsection (7) of
22 this section, where a case is legally sufficient, the prosecutor
23 shall file an information with the juvenile court if:

24 (a) An alleged offender is accused of a class A felony, a class B
25 felony, an attempt to commit a class B felony, a class C felony
26 listed in RCW 9.94A.411(2) as a crime against persons or listed in
27 RCW 9A.46.060 as a crime of harassment, or a class C felony that is a
28 violation of RCW 9.41.080 or 9.41.040(2)(a)(~~(iii)~~) (iv); or

29 (b) An alleged offender is accused of a felony and has a criminal
30 history of any felony, or at least two gross misdemeanors, or at
31 least two misdemeanors; or

32 (c) An alleged offender has previously been committed to the
33 department; or

34 (d) An alleged offender has been referred by a diversion unit for
35 prosecution or desires prosecution instead of diversion; or

36 ~~(e) ((An alleged offender has three or more diversion agreements
37 on the alleged offender's criminal history; or~~

38 ~~(f))~~ A special allegation has been filed that the offender or an
39 accomplice was armed with a firearm when the offense was committed.

1 (6) Where a case is legally sufficient the prosecutor shall
2 divert the case if the alleged offense is a misdemeanor or gross
3 misdemeanor or violation and the alleged offense is the offender's
4 first offense or violation. If the alleged offender is charged with a
5 related offense that must or may be filed under subsections (5) and
6 (8) of this section, a case under this subsection may also be filed.

7 (7) Where a case is legally sufficient to charge an alleged
8 offender with either prostitution or prostitution loitering and the
9 alleged offense is the offender's first prostitution or prostitution
10 loitering offense, the prosecutor shall divert the case.

11 (8) Where a case is legally sufficient and falls into neither
12 subsection (5) nor (6) of this section, it may be filed or diverted.
13 In deciding whether to file or divert an offense under this section
14 the prosecutor shall be guided only by the length, seriousness, and
15 recency of the alleged offender's criminal history and the
16 circumstances surrounding the commission of the alleged offense.

17 (9) Whenever a juvenile is placed in custody or, where not placed
18 in custody, referred to a diversion interview, the parent or legal
19 guardian of the juvenile shall be notified as soon as possible
20 concerning the allegation made against the juvenile and the current
21 status of the juvenile. Where a case involves victims of crimes
22 against persons or victims whose property has not been recovered at
23 the time a juvenile is referred to a diversion unit, the victim shall
24 be notified of the referral and informed how to contact the unit.

25 (10) The responsibilities of the prosecutor under subsections (1)
26 through (9) of this section may be performed by a juvenile court
27 probation counselor for any complaint referred to the court alleging
28 the commission of an offense which would not be a felony if committed
29 by an adult, if the prosecutor has given sufficient written notice to
30 the juvenile court that the prosecutor will not review such
31 complaints.

32 (11) The prosecutor, juvenile court probation counselor, or
33 diversion unit may, in exercising their authority under this section
34 or RCW 13.40.080, refer juveniles to mediation or victim offender
35 reconciliation programs. Such mediation or victim offender
36 reconciliation programs shall be voluntary for victims.

37 **Sec. 5.** RCW 13.50.270 and 2014 c 175 s 5 are each amended to
38 read as follows:

1 (1)(a) Subject to RCW 13.50.050(13), all records maintained by
2 any court or law enforcement agency, including the juvenile court,
3 local law enforcement, the Washington state patrol, and the
4 prosecutor's office, shall be automatically destroyed within ninety
5 days of becoming eligible for destruction. Juvenile records are
6 eligible for destruction when:

7 (i) The person who is the subject of the information or complaint
8 is at least eighteen years of age;

9 (ii) ~~The person's ((criminal history consists entirely of one~~
10 ~~diversion agreement or counsel and release entered on or after June~~
11 ~~12, 2008))~~ records consist of successfully completed diversion
12 agreements and counsel and release agreements, or both, which were
13 completed on or after the effective date of this section; and

14 (iii) ~~((Two years have elapsed since completion of the agreement~~
15 ~~or counsel and release;~~

16 (iv) ~~No proceeding is pending against the person seeking the~~
17 ~~conviction of a criminal offense; and~~

18 (v)) There is no restitution owing in the case.

19 (b) Notwithstanding this subsection (1), records of successfully
20 completed diversion agreements and counsel and release agreements
21 remain subject to destruction under the terms set forth in
22 subsections (2) through (4) of this section, as well as sealing under
23 RCW 13.50.260.

24 (c) No less than quarterly, the administrative office of the
25 courts shall provide a report to the juvenile courts of those
26 individuals whose records may be eligible for destruction. The
27 juvenile court shall verify eligibility and notify the Washington
28 state patrol and the appropriate local law enforcement agency and
29 prosecutor's office of the records to be destroyed. The requirement
30 to destroy records under this subsection is not dependent on a court
31 hearing or the issuance of a court order to destroy records.

32 ((e)) (d) The state and local governments and their officers
33 and employees are not liable for civil damages for the failure to
34 destroy records pursuant to this section.

35 (2) All records maintained by any court or law enforcement
36 agency, including the juvenile court, local law enforcement, the
37 Washington state patrol, and the prosecutor's office, shall be
38 automatically destroyed within thirty days of being notified by the
39 governor's office that the subject of those records received a full
40 and unconditional pardon by the governor.

1 (3)(a) A person may request that the court order the records in
2 his or her case destroyed as follows:

3 (i) A person eighteen years of age or older whose criminal
4 history consists entirely of one diversion agreement or counsel and
5 release entered prior to June 12, 2008. The request shall be granted
6 if the court finds that two years have elapsed since completion of
7 the agreement or counsel and release.

8 (ii) A person twenty-three years of age or older whose criminal
9 history consists of only referrals for diversion. The request shall
10 be granted if the court finds that all diversion agreements have been
11 successfully completed and no proceeding is pending against the
12 person seeking the conviction of a criminal offense.

13 (b) If the court grants the motion to destroy records made
14 pursuant to this subsection, it shall, subject to RCW 13.50.050(13),
15 order the official juvenile court record, the social file, and any
16 other records named in the order to be destroyed.

17 (c) The person making the motion pursuant to this subsection must
18 give reasonable notice of the motion to the prosecuting attorney and
19 to any agency whose records are sought to be destroyed.

20 (4) Any juvenile justice or care agency may, subject to the
21 limitations in RCW 13.50.050(13) and this section, develop procedures
22 for the routine destruction of records relating to juvenile offenses
23 and diversions.

24 (a) Records may be routinely destroyed only when the person the
25 subject of the information or complaint has attained twenty-three
26 years of age or older or pursuant to subsection (1) of this section.

27 (b) The court may not routinely destroy the official juvenile
28 court record or recordings or transcripts of any proceedings.

29 **Sec. 6.** RCW 10.31.100 and 2016 c 203 s 9 and 2016 c 113 s 1 are
30 each reenacted and amended to read as follows:

31 A police officer having probable cause to believe that a person
32 has committed or is committing a felony shall have the authority to
33 arrest the person without a warrant. A police officer may arrest a
34 person without a warrant for committing a misdemeanor or gross
35 misdemeanor only when the offense is committed in the presence of an
36 officer, except as provided in subsections (1) through (12) of this
37 section.

38 (1) Any police officer having probable cause to believe that a
39 person has committed or is committing a misdemeanor or gross

1 misdemeanor, involving physical harm or threats of harm to any person
2 or property or the unlawful taking of property or involving the use
3 or possession of cannabis, or involving the acquisition, possession,
4 or consumption of alcohol by a person under the age of twenty-one
5 years under RCW 66.44.270, or involving criminal trespass under RCW
6 9A.52.070 or 9A.52.080, shall have the authority to arrest the
7 person.

8 (2) A police officer shall arrest and take into custody, pending
9 release on bail, personal recognizance, or court order, a person
10 without a warrant when the officer has probable cause to believe
11 that:

12 (a) An order has been issued of which the person has knowledge
13 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
14 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
15 person has violated the terms of the order restraining the person
16 from acts or threats of violence, or restraining the person from
17 going onto the grounds of or entering a residence, workplace, school,
18 or day care, or prohibiting the person from knowingly coming within,
19 or knowingly remaining within, a specified distance of a location or,
20 in the case of an order issued under RCW 26.44.063, imposing any
21 other restrictions or conditions upon the person; or

22 (b) A foreign protection order, as defined in RCW 26.52.010, has
23 been issued of which the person under restraint has knowledge and the
24 person under restraint has violated a provision of the foreign
25 protection order prohibiting the person under restraint from
26 contacting or communicating with another person, or excluding the
27 person under restraint from a residence, workplace, school, or day
28 care, or prohibiting the person from knowingly coming within, or
29 knowingly remaining within, a specified distance of a location, or a
30 violation of any provision for which the foreign protection order
31 specifically indicates that a violation will be a crime; or

32 (c) The person is eighteen years or older and within the
33 preceding four hours has assaulted a family or household member as
34 defined in RCW 10.99.020 and the officer believes: (i) A felonious
35 assault has occurred; (ii) an assault has occurred which has resulted
36 in bodily injury to the victim, whether the injury is observable by
37 the responding officer or not; or (iii) that any physical action has
38 occurred which was intended to cause another person reasonably to
39 fear imminent serious bodily injury or death. Bodily injury means
40 physical pain, illness, or an impairment of physical condition. When

1 the officer has probable cause to believe that family or household
2 members have assaulted each other, the officer is not required to
3 arrest both persons. The officer shall arrest the person whom the
4 officer believes to be the primary physical aggressor. In making this
5 determination, the officer shall make every reasonable effort to
6 consider: (A) The intent to protect victims of domestic violence
7 under RCW 10.99.010; (B) the comparative extent of injuries inflicted
8 or serious threats creating fear of physical injury; and (C) the
9 history of domestic violence of each person involved, including
10 whether the conduct was part of an ongoing pattern of abuse.

11 (3) ((A)) Any police officer (~~(shall, at the request of a parent~~
12 ~~or guardian,~~) may arrest ((the)) a person who is sixteen or
13 seventeen years old (~~(child of that parent or guardian)~~) if the
14 officer has probable cause to believe that the ((child)) person has
15 assaulted a family or household member as defined in RCW 10.99.020 in
16 the preceding four hours and the officer believes: (a) A felonious
17 assault has occurred; (b) an assault has occurred which has resulted
18 in bodily injury to the victim, whether the injury is observable by
19 the responding officer or not; or (c) that any physical action has
20 occurred which was intended to cause another person reasonably to
21 fear imminent serious bodily injury or death. In making the
22 determination to arrest, the officer shall consider: (i) The intent
23 to protect victims of domestic violence under RCW 10.99.010; (ii) the
24 extent of injuries inflicted or serious threats creating fear of
25 physical injury; and (iii) the history of domestic violence or
26 stalking of each person involved, including whether the conduct was
27 part of an ongoing pattern of abuse. Nothing in this subsection
28 removes, or otherwise limits, a police officer's existing authority
29 provided in this section to make an arrest.

30 (4) Any police officer having probable cause to believe that a
31 person has committed or is committing a violation of any of the
32 following traffic laws shall have the authority to arrest the person:

33 (a) RCW 46.52.010, relating to duty on striking an unattended car
34 or other property;

35 (b) RCW 46.52.020, relating to duty in case of injury to or death
36 of a person or damage to an attended vehicle;

37 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
38 racing of vehicles;

39 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
40 influence of intoxicating liquor or drugs;

1 (e) RCW 46.61.503 or 46.25.110, relating to persons having
2 alcohol or THC in their system;

3 (f) RCW 46.20.342, relating to driving a motor vehicle while
4 operator's license is suspended or revoked;

5 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
6 negligent manner.

7 (5) A law enforcement officer investigating at the scene of a
8 motor vehicle accident may arrest the driver of a motor vehicle
9 involved in the accident if the officer has probable cause to believe
10 that the driver has committed in connection with the accident a
11 violation of any traffic law or regulation.

12 (6)(a) A law enforcement officer investigating at the scene of a
13 motor vessel accident may arrest the operator of a motor vessel
14 involved in the accident if the officer has probable cause to believe
15 that the operator has committed, in connection with the accident, a
16 criminal violation of chapter 79A.60 RCW.

17 (b) A law enforcement officer investigating at the scene of a
18 motor vessel accident may issue a citation for an infraction to the
19 operator of a motor vessel involved in the accident if the officer
20 has probable cause to believe that the operator has committed, in
21 connection with the accident, a violation of any boating safety law
22 of chapter 79A.60 RCW.

23 (7) Any police officer having probable cause to believe that a
24 person has committed or is committing a violation of RCW 79A.60.040
25 shall have the authority to arrest the person.

26 (8) An officer may act upon the request of a law enforcement
27 officer in whose presence a traffic infraction was committed, to
28 stop, detain, arrest, or issue a notice of traffic infraction to the
29 driver who is believed to have committed the infraction. The request
30 by the witnessing officer shall give an officer the authority to take
31 appropriate action under the laws of the state of Washington.

32 (9) Any police officer having probable cause to believe that a
33 person has committed or is committing any act of indecent exposure,
34 as defined in RCW 9A.88.010, may arrest the person.

35 (10) A police officer may arrest and take into custody, pending
36 release on bail, personal recognizance, or court order, a person
37 without a warrant when the officer has probable cause to believe that
38 an order has been issued of which the person has knowledge under
39 chapter 10.14 RCW and the person has violated the terms of that
40 order.

1 (11) Any police officer having probable cause to believe that a
2 person has, within twenty-four hours of the alleged violation,
3 committed a violation of RCW 9A.50.020 may arrest such person.

4 (12) A police officer having probable cause to believe that a
5 person illegally possesses or illegally has possessed a firearm or
6 other dangerous weapon on private or public elementary or secondary
7 school premises shall have the authority to arrest the person.

8 For purposes of this subsection, the term "firearm" has the
9 meaning defined in RCW 9.41.010 and the term "dangerous weapon" has
10 the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

11 (13) A law enforcement officer having probable cause to believe
12 that a person has committed a violation under RCW 77.15.160(4) may
13 issue a citation for an infraction to the person in connection with
14 the violation.

15 (14) A law enforcement officer having probable cause to believe
16 that a person has committed a criminal violation under RCW 77.15.809
17 or 77.15.811 may arrest the person in connection with the violation.

18 (15) Except as specifically provided in subsections (2), (4),
19 (5), and (8) of this section, nothing in this section extends or
20 otherwise affects the powers of arrest prescribed in Title 46 RCW.

21 (16) No police officer may be held criminally or civilly liable
22 for making an arrest pursuant to subsection (2) or (10) of this
23 section if the police officer acts in good faith and without malice.

24 (17)(a) Except as provided in (b) of this subsection, a police
25 officer shall arrest and keep in custody, until release by a judicial
26 officer on bail, personal recognizance, or court order, a person
27 without a warrant when the officer has probable cause to believe that
28 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
29 local ordinance and the police officer has knowledge that the person
30 has a prior offense as defined in RCW 46.61.5055 within ten years.

31 (b) A police officer is not required to keep in custody a person
32 under (a) of this subsection if the person requires immediate medical
33 attention and is admitted to a hospital.

34 ~~((18) A juvenile detention facility shall book into detention
35 any person under age eighteen brought to that detention facility
36 pursuant to an arrest for assaulting a family or household member as
37 defined in RCW 10.99.020.))~~

38 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
39 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2017, in the omnibus appropriations act, this
2 act is null and void."

2SHB 1280 - S COMM AMD

By Committee on Human Services, Mental Health & Housing

3 On page 1, line 1 of the title, after "Relating to" strike the
4 remainder of the title and insert "juvenile justice standards;
5 amending RCW 13.40.510, 13.40.070, and 13.50.270; reenacting and
6 amending RCW 10.31.100; adding a new section to chapter 13.40 RCW;
7 creating new sections; and providing an expiration date."

EFFECT: (1) Provides a stop loss provision in the event the bill results in a funding loss to any juvenile court of more than two percent from one year to the next.

(2) Requires the block grant oversight committee to establish a minimum base level for those counties with lower numbers of at-risk youth.

(3) Requires the juvenile rehabilitation administration to report to the legislature.

(4) Changes the filing criteria for criminal charges against a juvenile.

(5) Requires the destruction of a juvenile's criminal record when they reach 18 years of age if the record consists only of completed diversion, counsel, and release agreements.

(6) Preserves existing authority to destroy diversion and counsel and release agreements or seal them as otherwise provided by law.

(7) Removes the directive for a juvenile detention facility to book every juvenile under 18 years of age into detention when he or she is arrested for domestic violence assault.

(8) Adds a null and void clause.

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